

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
PacAmTel, LLC)	
)	File No. SES-AMD-20020418-00615
Petition for Waiver of Section 25.205 of the)	
Commission's Rules)	
)	
)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: June 26, 2002

Released: June 27, 2002

By the Chief, Policy Branch, Satellite Division, International Bureau:

1. In this Order, we grant a petition for waiver filed by PacAmTel, LLC ("PacAmTel").¹ PacAmTel seeks a waiver to transmit to a satellite at an angle of elevation below the 5° limit specified by Section 25.205 of the Commission's rules.² The petition is unopposed. We grant the petition because it will facilitate the delivery of services to the public and because grant of waiver will not undermine the policy objective of Section 25.205.

2. PacAmTel seeks a waiver to permit it to operate its earth station at a 4.6° elevation angle.³ PacAmTel's earth station will transmit in the 14.0 – 14.5 GHz band to the PAS 2 satellite located at the 169° E.L. orbital location.⁴ PacAmTel states that the earth station will be located on top of a mountain in a remote area of California.⁵ PacAmTel states further that the area for several miles from the earth station site toward the satellite is not inhabited and is difficult to access by the general public.⁶ In addition, PacAmTel contends that the closest public access is a highway located four miles from the earth station site and that the elevation of the highway is also 300 feet lower than the elevation of the earth station site.⁷

3. Commission rules may be waived if there is "good cause" to do so.⁸ Waiver is

¹ PacAmTel, LLC, Amendment to Modification Application, File No. SES-AMD-20020418-00615 (filed Apr. 18, 2002) (PacAmTel Request for Waiver).

² 47 C.F.R. § 25.205 (2001).

³ See PacAmTel Request for Waiver at 1.

⁴ PacAmTel Request for Waiver at 1.

⁵ PacAmTel Request for Waiver at 1.

⁶ PacAmTel Request for Waiver at 1.

⁷ PacAmTel Request for Waiver at 1.

⁸ See 47 C.F.R. § 1.3 (2001). See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) (*WAIT Radio*); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule.⁹ Circumstances that would justify a waiver include “considerations of hardship, equity, or more effective implementation of overall policy.”¹⁰ Also, if the Commission grants waivers, it must identify and articulate reasonable standards that are predictable, workable, and not susceptible to discriminatory application.¹¹ Generally, the Commission may grant a waiver of its rules in a particular case if the relief requested would not undermine the policy objective of the rule in question and would otherwise serve the public interest.¹²

4. Section 25.205 states that earth station antennas shall not normally be authorized for transmission at angles less than 5° measured from the horizontal plane to the direction of maximum radiation.¹³ The purpose of Section 25.205 is to prevent earth stations from causing interference to other Commission licensees. We find that granting PacAmTel’s waiver request would not undermine this policy objective. First, the 14.0 – 14.5 GHz band is not shared with terrestrial microwave communications services. Consequently, transmission by the earth station in this band will not restrict the growth or coordination of terrestrial microwave paths due to interference considerations. Second, the remote location and high elevation of PacAmTel’s earth station makes interference with other Commission licensees highly unlikely. Therefore, we conclude that waiver will not undermine the policy objective of our rule.

5. Accordingly, IT IS ORDERED, pursuant to Section 1.3 of the Commission’s rules, 47 C.F.R. § 1.3, that PacAmTel’s request for waiver of Section 25.205 of the Commission’s rules, 47 C.F.R. § 25.205, IS GRANTED.

6. This Order is issued pursuant to Section 0.261 of the Commission’s rules on delegated authority, 47 C.F.R. § 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission’s rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of public notice of this Order (*see* 47 C.F.R. § 1.4(b)(2)).

Federal Communications Commission

Jennifer M. Gilsenan
Chief, Policy Branch
Satellite Division

⁹ *Northeast Cellular*, 897 F.2d at 1166. *See also* Comsat Corporation, Petition for Partial Relief from the Current Regulatory Treatment of Comsat World Systems’ Switched Voice, Private Line, and Video and Audio Services, Order, 11 FCC Rcd 9622, 9625 (para. 10) (1996); Petition of General Communications, Inc. for a Partial Waiver of the Bush Earth Station Policy, Memorandum Opinion and Order, 11 FCC Rcd 2535, 2536 (para. 4) (Int’l Bur. 1996).

¹⁰ *WAIT Radio*, 481 F.2d at 1159.

¹¹ *Northeast Cellular*, 897 F.2d at 1166.

¹² *WAIT Radio*, 418 F.2d at 1157; Dominion Video Satellite, Inc., Order and Authorization, 14 FCC Rcd 8182, 8185 (para. 5) (Int’l Bur., 1999) (*Dominion Video*).

¹³ 47 C.F.R. § 25.205 (2001).